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REMARKS
OF
W. L. HIRST, Esq.

MR. CHAIRMAN AND GENTLEMEN OF THE COMMITTEE :

It has been my lot, during a long and arduous practice, to be concerned in many an interesting cause, but, I think I can say, in no cause more interesting than this. We are before you—my learned friend and colleague on my right, (D. Webster, Esq.,) and my learned and distinguished colleague, (Hon. Thomas Corwin,) on my left—to plead the cause of a young lady, before the Legislature of her native State. She has presented to you a memorial, the truth of which I propose to show, asking that she may be liberated from a contract of marriage, of which I may use the expression, that the ink of its record is scarcely dry. After an experience in married life of scarcely more than a month, she and her husband agree only upon one thing: that they never will live together again. On that point they cordially concur.

There are two views of this matter to be discussed before you, gentlemen: one in reference to the law of the case, and the other in reference to the facts—and acting upon the suggestion which fell from

the Chair, to economize time, I will proceed immediately to the consideration of them.

We have been told that the Legislature has no power to act; that the supreme legislative authority of this Commonwealth is unable to afford relief in a case like the present; that the Constitution has disabled you, and that relief, if sought and obtained at all, must be sought and obtained in a Court of Justice. I will proceed to show you that there is nothing in that argument. I will next offer some observations upon the facts of the case for the purpose of giving to you their real character, and enabling you to deduce from them a truthful result.

The right of the Legislature in England, and in this State, prior to the late Constitution, to annul the contract of marriage, has never been questioned. In any and in every case it has always been admitted to be supreme. But for the Constitution of 1838, the power of our Legislature to grant divorces would be unquestionable in all cases whatsoever.

The Legislature exercises this authority, and in proper cases they have exercised it repeatedly, every session since the Constitution of 1838, for the reason that although a marriage is a civil contract, and so regarded by the laws of the land, yet it is a contract of that peculiar nature that affects the social happiness of the community; not only the happiness of the parties directly interested, but the community at large. This is one ground upon which this authority is exercised. You are aware that the Constitution of the United States forbids you to pass a law impairing the obligation of a contract. Marriage is a contract, and yet the Legislature can put an end to it. While in every other case of contract in which the Legislature has exceeded its constitutional authority, and the Courts have annulled its action, in this respect no one has doubted its authority.

So, also, where there has been any breach of the contract on the part of one of the parties, or both, not cognisable in the Courts, and where it clearly appears that the continuance of the contract would be injurious to the parties, destructive of their happiness, and prejudicial to the interests of the community, it is the right, and it becomes the duty of the Legislature, to extend relief.

The 14th Section of the 1st Article of the Constitution of 1838

provides, that "the Legislature shall not have power to enact laws annulling the contract of marriage in any case where, by law, the Courts of this Commonwealth are, or may hereafter, be empowered to decree a divorce."

The occasion that gave rise to this constitutional clause was stated to me this morning by a member of the Senate. It was the case of an individual who was divorced from her husband while travelling in a foreign country, without notice and without cause.

Although the Act of 1815 gives the Courts power to grant relief in a case where the husband, by cruel and barbarous treatment, *endangers the wife's life*, or offers such indignities to her person as to render her condition intolerable and life burdensome, *and thereby* force her to withdraw from his house and family, yet this case cannot be heard in the Courts, because the same law requires that, before the Courts can take jurisdiction of it, the wife must take an oath either that her life is in danger, or that she was, for the latter reason assigned in the Act, forced to withdraw from the house of the husband. According to the memorial of Mrs. H. B. Fry, which you have all perused, she has stated, upon oath, that she cannot make an affidavit to the effect required by the law. She states that she does not consider her life in danger, and that she withdrew from her husband's house because his demand required of her to submit to his will that they should seem to the world to live together as man and wife, under the same roof, and yet, in reality, be strangers to each other.

Before a Court can take jurisdiction of the subject-matter of a complaint, the libellant is compelled to make an oath which appeals to her feelings, to her sense of personal security, to her conscience, as to the nature and effect of the threats and conduct of her husband; and until she does make that oath, which is so addressed to her feelings, her conviction and her conscience, the Court can have no jurisdiction. She has said to you, in the most solemn manner, that, for the reasons given in her petition, she cannot make such an oath. It would be false. I need not say to you, gentlemen of the Committee, that having made such an oath before you, at the foot of her memorial, it would be a violation of every sense of common decency and propriety on her part, to go into a Court of Common Pleas, and make an oath directly the reverse — thus convicting herself of what her hus-

band has endeavored to convict her several times—of perjury. The case, therefore, for the reasons stated, can never have place in a Court of Justice. Were she to enter a Court, swearing entirely the reverse of the averments which she has already made, no Court would hesitate to dismiss her application.

There is another view of this case, according to which the power of the Legislature to grant relief, seems to me to be unquestionable. It is clear of all constitutional objection. There are no parties here. This is not a Court. There is no plaintiff; there is no defendant. You are bound by no technical rules. You have the whole subject matter of the marriage contract and the married life of these parties before you. Of the facts you will decide as to you seem meet. If you find any reasons whatever, set forth in the petition of Mrs. Emily L. Fry, or set forth in the multitude of answers of Horace B. Fry, which appeal to your judgment and consciences as a case in which it is your duty to separate them by an Act of Divorce, you will do it. Upon this point, gentlemen, you can have no doubt. Mr. Fry has publicly repudiated his wife. He has put upon the records of this House a memorial that will last as long and longer than she lives, accusing his wife of infidelity, perjury, and of a series of acts, which would make it a public scandal to continue them longer in the condition of husband and wife. He has represented her to be a woman without virtue, addicted to habits of a character that I shudder to repeat, a woman so odious in his sight, that I must express my astonishment that he has not joined her in imploring you to dissolve the connection which he says disgraces him. Upon this ground, disconnected with the one that this case cannot be judicially decided, it seems to me to be the duty of the Legislature to dissolve this union. It is a matter, gentlemen, utterly immaterial whether the husband, or the wife, has introduced this proceeding, because there are no parties here, there is no suit to be dismissed, there is no party to be put out of Court, both are before you, the subject is with you for decision, and no matter who is wrong or who is right, or whether both be wrong, I do not think that there is a gentleman whom I now address but will say that this connection ought to be dissolved.

You have in the answer of Mr. Fry, a hearty concurrence on the subject of a divorce. He says himself that he means to apply for it

some eighteen months hence. He avows in terms that no one can misunderstand, that his connection with his wife is forever dissolved. But he desires to hold this lady in a condition of which it would be painful to speak, for eighteen months; until it pleases him to apply for a divorce, upon the ground of desertion. It is only, therefore, a question of time between the parties, the wife desiring it immediately, and the husband desiring it at a period in the future; both anxious, determined and resolute never to cohabit together again, and each resolved on a separation at the first opportunity, the wife by legislative aid, the husband by judicial aid, without any more delay than the nature of the case requires.

Upon this subject we have had but one decision in our Supreme Court. If you will, gentlemen of the Committee, take up the second volume of Jones' Reports, and turn to the case of Jones against Jones, page 350, you will find the only case adjudicated under the recent Constitution. In that case the Act of Assembly was declared unconstitutional. I have no doubt many gentlemen of the Committee remember it. It was a Montgomery county case. A Mrs. Jones applied to the Court of Common Pleas of that county, asking to be divorced from the bonds of matrimony, alleging cruel and barbarous treatment.

Her affidavit at the foot of her petition was in the usual legal form. The Court having jurisdiction, the cause was tried and a verdict given against her. Her counsel, who was then a Senator from that county, drew up a bill, which passed both Houses, divorcing the parties, and neither in its preamble nor the enacting section did it set forth any cause of divorce. In that case the Court said that it was lawful to go behind the Act of Assembly for the purpose of ascertaining whether the Legislature had jurisdiction, and they held, that where a cause had been tried by the Courts, and precisely the same reasons stated in the memorial to the Legislature, that that body had no jurisdiction, and the Act was unconstitutional. But they said that an Act of the Legislature would be constitutional if it were passed "for any non-enumerated cause in the Constitution,—in other words, if not for any of the causes over which the Court had jurisdiction." And further, "that if the Legislature had specified in the Act, or by a preamble, that the divorce was granted for a cause where the court had no power,

a very different case would be presented. But they have not said it."

If, therefore, gentlemen of the Committee, you resolve to report a bill which in its preamble or enacting clause sets forth any cause of divorce not cognizable in the Courts, and it should pass into a law, it will be valid. But, if any doubt exists, which is the proper forum to decide this question,—if an Act be passed, and it be an invasion of the judicial power of this Commonwealth, is not the judicial power able to protect and vindicate itself? Can it not decide, upon an appeal to it, whether you have intrenched upon its jurisdiction or not? It is a question upon which we think there is no doubt; but if there be, which is the proper place to resolve it? Why not refer it to the judicial tribunals? You are all aware of the familiar rule of construction upon these constitutional questions; it is in favor of the legislative power. The Courts will go to the very verge in sustaining that power, against any constitutional provision or limitation, if there be a doubt as to the construction of the Constitution itself. This was exemplified in the case of the sale to the Sunbury and Erie Railroad Company of the remnant of the State works. There was a provision of the Constitution which looked very much indeed as if it disfavored such a sale in the mode and manner prescribed by the law. But the Court sustained the Act of Assembly, and held the sale valid. The rule by which it was sustained was as old and older than the Constitution; it favors the legislative power unless in cases where an undoubted mandate of the Constitution prohibits the exercise of it. This has never been disputed, and until it can be shown clearly and undoubtedly, that an imperative provision of the Constitution stands in the way, an Act of the Legislature will be vindicated, as a fair, proper and legal exercise of the legislative power.

I now come to the facts of this case. It is a painful subject in any light. We appear in behalf of a young lady—she might almost be called a child—who was received from the arms of her father on her eighteenth birthday by Mr. Fry. Her father, with the natural affection which he had exhibited not only to her, but to the other members of his family, had made ample provision for her future comfort. He had purchased a mansion for the residence of herself and husband, which cost him some thirty thousand dollars; he had furnished it at

a cost of nearly ten thousand dollars more. He had settled upon her married sister six thousand dollars a year, and it was not likely that he would discriminate against his youngest and last daughter, who was all that was left to him except one single child, a son. The bride and groom started on a bridal tour to West Point, apparently in happiness. During their sojourn there their friends at home were led to believe, by letters from Mr. Fry, that that happiness continued unalloyed, and that it would continue during both their lives. A very few days elapsed, and we find the daughter back again under her father's roof, and now she appears before you an applicant for the divorce for which she prays. Her petition sets forth several acts upon the part of her husband of a character so extraordinary, and, if I convince you of their truth, so intemperate that no *man*—I use the word in its full sense—no man could hesitate for one moment to give her the relief, the little relief that she asks. It is not much, but it is all you have it in your power to grant to her. She says, that while the bridal party was leaving the wharf, a few hours after the marriage, Mr. Fry first exhibited temper; that when they arrived at New York, on the occasion of their starting for West Point, he exhibited temper again; that at West Point, soon after they arrived there, he began to use violent language, succeeded by violent action, such as throwing her from her chair; throwing a chair at her; searching his trunk for a pistol to shoot her;—and that when she told him she would write to her parents for protection, he threatened to intercept her letters, and write such a communication to them as would entirely change their opinion. That, when she returned to town, he again threatened her with violence, and that this course of conduct continued until, finally, he proposed to live as if they were not married—seeming to be married without being married—living in a state of apparent matrimony under the same roof; when she left his residence altogether. This is the picture of a short married life, as presented by the wife. What does the husband say? I beg your particular attention to it, gentlemen. He says that within a few days after they were married, before they reached West Point, she exhibited a trait of character which she had carefully concealed during their engagement; that before the end of a week she became indifferent and cold, and that before the end of a fortnight her conduct became repellant and insulting. These are the pic-

tures presented by the two parties. Now, gentlemen, at the time Mr. Fry asserts that his wife's conduct is cold, repellant and insulting, let me read you what he writes to her parents. Mr. Fry says to Mr. John Grigg, August 5th:

“MY DEAR SIR:—I have nothing particular to chronicle, beyond a continuance, without interruption, of the pleasure we started with.

“I hope that Mrs. Grigg and yourself will not find Emily's absence a bar to your enjoyment of life, but will consider as a set-off for the gap in your house, the fact that the short distance in life's journey that she has gone with me, has thus far been perfectly happy, and the promise of its continuance is more favorable than is usually found. I thought to-day that the saying, ‘the time during which a young lady is engaged to be married is spent in wearing a mask,’ did Emily great injustice.”

And yet he tells you that within the first week he discovered that she had artfully concealed, during her engagement, a trait of character which bade fair to make them miserable. I will now call your attention to Mr. Fry's letter of August 14th, to Mr. Grigg:

“MY DEAR SIR:—I write to-day more with a view of keeping you apprised of our health and happiness,” &c.

“We keep jogging on in the same routine of pleasure and idleness.”

And the letter from Mr. Fry to Mr. John W. Grigg, dated August 14:

“MY DEAR SIR:—Your father and mother may have informed you of the particulars of our wedding, which I believe to all present was a very happy one, and I have since then nothing to record but a continuance of the happiness then commenced, which bids fair to continue in undiminished amount for Emily's and my life.”

I will show you, gentlemen, directly, when I reach Mr. Fry's answer, that at the very time he here speaks of nothing but happiness, he there speaks of his wife as a public scandal, a reproach to himself, and

as having pursued a course of conduct which was disgraceful to both. You will also find, by looking at her allegations in the petition, that Mr. Fry told her if she wrote to her father he would write letters to him contradicting her. I leave it to you, gentlemen, to imagine whether these letters were written with that intent and purpose.

I have given you in brief a statement of Mrs. Fry's complaints. I now call your attention to the issue framed between her and her husband by his answer. I find it distinctly written here that Mr. Fry states, as the issue between himself and wife, that her charges of misconduct on his part, are romances, invented by her afterwards, as a necessity to a baseless cause—that is, after the separation. This is the issue voluntarily placed before you by Mr. Fry. He charges distinctly that every word she has uttered in her memorial, and sworn to, is a flat perjury and utterly untrue. Let me see if I can find corroboration for her statements, and if I can show you that her complaints actually existed at the very time to which they refer;—and if I do so by a witness who is introduced to you here with a recommendation from Mr. Fry's particular friend, Mr. Charles Williams, I hope it will tend to create a different impression on your minds.

Before I introduce to you Mr. Wagner of West Point, I would read you his character as depicted by Mr. Williams, the chosen friend of Mr. H. B. Fry, by whom he was sent to West Point. I crave your particular attention to this, because if I show that these complaints of Mrs. Fry are not, as alleged by Mr. Fry in his answer, mere inventions and perjured concoctions of an unscrupulous woman's brain, gotten up a month after the occurrences; but that they existed substantially at the time to which she refers, then I put at rest the issue raised by him beyond the possibility of a doubt. Before giving you Mr. Wagner's testimony, I will read you what Mr. Williams says, in a letter addressed to Mr. Wagner, after his return from West Point:

“Not one word did you tell but what I believed then, as I do now, and I unhesitatingly declare that I believe ALL YOUR INTERCOURSE WITH HER, as with me, to be that of A HIGH-MINDED, UPRIGHT GENTLEMAN, though wrong and indiscreet as you admitted in writing the letter you did.”

I will now refer to the written testimony of Mr. Wagner, who writes that which he had spoken to Mr. Williams, and which Mr. Williams states that he believed then and still believes.

What does Mr. Wagner say? You have observed, gentlemen, the issue raised by Mr. Fry himself, and which he cannot escape from nor elude. He has deliberately placed it before you, and now I propose to show you that at West Point, while the parties were residing there, these very statements which Mrs. Fry has detailed in her memorial, she also made the day after they happened to Mr. Wagner.

I beg your particular attention to this letter of Mr. Wagner. It bears upon its face a truthful and spontaneous statement of facts, by a gentleman who receives an education at an institution where honor is among the first branches taught, and the principles of the highest morality strictly enjoined.

“About the beginning of the month of August, 1858, I was introduced to Mrs. Horace B. Fry by a mutual friend, and a few minutes afterward by him (Mr. Fry) to his wife. A few days afterward I called upon Mr. Fry at the hotel where he was then staying, and had with him a conversation, during which the ladies accompanying him were referred to, and he remarked that he would be most happy to have me better acquainted with them, and to have me show them as much attention as I could. I did not meet these ladies during this visit, as I had not time to wait on them. Some days afterward I met them, and from this time our acquaintance gradually progressed. During its continuance I visited Mrs. Fry at the hotel frequently, accompanied her to the Cadet ‘Hops,’ and occasionally walked with her. Mr. Fry always seemed pleased to meet me, and never made the least objection to my attentions to his wife. I met him more frequently alone than otherwise, as he was seldom in the parlors of the hotel during the time at which we were allowed to visit there.

“I met Mrs. Fry generally when there were a number of persons around us, and cannot remember being with her a single time at which we might be entirely free from observation. I do most solemnly avow that all my personal intercourse with her was such as might freely occur between a gentleman and a lady, and was governed by principles of friendship and honor. There never was a single indelicate word,

thought, or allusion exchanged by us, and our conversation was generally upon those topics about which intelligent persons are accustomed to speak."

You will observe, as my colleague has just reminded me, that in Mr. Fry's answer to Mr. Grigg's memorial in which this letter is copied, that he does not controvert these facts, nor any of them. He was daily in the habit of seeing Mr. Wagner; he was more frequently alone with him than in the presence of others, never objecting to his visits to his wife, or his attentions to her, and yet, if Mr. Fry was so dubious of his wife's chastity and purity, would he not have met him with different feelings and accosted him in a different manner? I hold it to be impossible that he could thus see, and meet, and converse with Mr. Wagner under these circumstances, if what he has since put upon the records of this House be true. I will show you directly where Mr. Fry asserts that at this particular time he was goaded to frenzy by the conduct of his wife. Yet he meets Mr. Wagner continually, speaks with him continually, never "makes the least objection" to his visits, does not show the slightest dissatisfaction with them. Circumstances have occurred recently in which these feelings of injury became so violent as even to lead to the sacrifice of the life of the offender.

I come now to the corroboration of the facts which Mrs. H. B. Fry sets forth, and I will thus disprove the charge framed by Mr. Fry against his wife—that her complaints are mere romances, as he alleges, invented after the separation. Mr. Wagner says:

"After I had known Mrs. Fry for some time, I asked her why it was that she so frequently looked sad and troubled. After some hesitation she told me that herself and Mr. Fry did not agree well together; that he frequently treated her harshly, and vented his temper upon her; that she found it impossible to please him, for when she agreed to any thing, he immediately changed his mind in reference to it; that he several times told her that she should be thankful to him for having raised her to the high position that she would occupy in society as his wife; that she had not been accustomed to good society, and that he would show her what good society was."

“On one occasion after this, she told me that the night before, Mr. Fry had thrown her from the chair on which she had been sitting. She once told me that Mr. Fry wished her to go with him to visit his brother, but that she did not feel well enough to go.”

On one occasion, the next morning after Mr. H. B. Fry had expected to go down the river to see Mr. Fry's brother, which information she communicated to Mr. Wagner, he expressed his surprise at seeing her, and asked her how it happened that she did not go, and yet Mr. Fry raises the issue that these things are inventions gotten up for the occasion, after the separation took place. I hold this corroboration to be conclusive and irresistible. It is vouched by a gentleman of perfect credibility, and there is no good reason to doubt his veracity, as it comes endorsed to you by Mr. Williams. It is a corroboration so strong, that it is impossible for you to resist the conclusion that these things took place at the very time, as Mrs. Fry states. Mr. Wagner goes on to say, “One morning she told me that the evening before, after returning from a ‘hop,’ Mr. Fry had locked the door when she came in and had threatened to shoot her, and that he did go to his trunk for his pistols, but that he did not take them out. I asked her if she was not afraid that he would really do so some time? She said that she did not believe he would dare to do it. She also told me that he swore at her most terribly.”

“One morning I met Mr. Fry alone at guard mounting, and I made the usual inquiries after the health of the ladies. He told me that Mrs. Fry was not well; that she had had a hemorrhage of the lungs the evening before.”

It seems, then, that Mr. Fry himself told Mr. Wagner that his wife had a hemorrhage of the lungs the evening before, which his wife swears was caused by his conduct to her. And yet Mr. Fry, in his memorial to you, says that the hemorrhage of the lungs was a mere falsehood, a romance, invented by his wife.

Mr. Wagner again says:

“When I met the lady again I asked her about her illness, and she told me that Mr. Fry had been so violent as to excite her excessively and to bring on a hemorrhage.

“All this, as told to me from time to time, excited my sympathy, and I endeavored to console and advise the lady. She seemed to be anxious to be separated from Mr. Fry, and I endeavored to explain to her how unfortunate and unpleasant her position would be in such a case. She said she could not possibly be more unhappy than she was. I advised her not to act without the consent of her parents, and she told me that she would appeal to you. She afterwards told me that Mr. Fry said that if she wrote to her father, he would take care that he should get a very different story from hers. On another occasion she told me that he had proposed a divorce, and had told her that he would speak to his lawyer as soon as he went home.”

This, also, she states in her memorial to you. This is another corroboration among the rest, and vouched for in such a way that you cannot discredit it. Mr. Wagner goes on to say :

“After Mrs. Fry’s return home, I received from her a letter, the contents of which were simply a statement that the relations between Mr. Fry and herself were unchanged ; that he still acted as before, and that he had laughed at the idea of fulfilling his promise about the divorce, and that she had told her mother all about the affair.”

You see, then, that she reveals her wrongs to her mother. She confides in her, and tells her the same sad story, as soon as she arrives. You are here again called upon, gentlemen, to decide between Mr. Fry and his wife, as to the fact, whether her complaints are after-thoughts, gotten up for the purposes of this proceeding.

I call your attention to the letter of Mr. Wagner to Mrs. Fry, because Mr. Fry has described it as a long love-letter—that long love-letter, beginning “My dearest Emily,” and ending “confide in me.” I am going to show you, gentlemen, what that letter did contain; Mr. Wagner proceeds :

“This letter I answered, and in my answer I renewed my advice that she should rely solely upon her parents, and be guided entirely by them.”

That was not a long love-letter. It did not say "confide in me." It said confide in your parents. Here the gentleman who wrote the letter gives to you, under the sanction of his name, the contents of that letter. Mr. Wagner continues: "About the same time I received a letter which merely gave an account of another difficulty with her husband. I threw it away." This confirms her statement that the difficulties continued after their arrival in Philadelphia.

Before I proceed to the visit of Mr. Williams at West Point, I want to call your attention to a particularly interesting omission of Mr. Fry in his answers presented to this body. You will observe that he avows continued kindness to his wife. You will observe that each particular statement which she has given of his improper conduct he alleges to be mere romance, invention and falsehood.

Now let me refer you to what he has himself confessed in his answer:—that on one occasion, at West Point, his temper got so far the command of him that he indulged in such violence towards his wife that he felt himself obliged to beg her pardon afterwards. I will read it to you, and I beg your particular notice to this very important omission, namely: that while he admits violence, he does not tell you what that violence was. Was it driving her from her chair? Was it throwing chairs about? Was it violence of language affecting her purity and dignity? What was it? He says:

"On one occasion, and one only, when her public conduct, tending to bring her character as a wife and a woman into question, had passed all the bounds of a husband's toleration, I remonstrated with her in earnest terms; and while I was conscious, on the one hand of my devoted love for her, and on the other was stung to the heart and exasperated by her cruel indifference; when, with these bitter truths, this unmerited wrong preying on my mind and harrowing my feelings, she attempted to palliate her gross misconduct by telling me that I wished to deprive her of *every* pleasure, then, and then only, I lost my patience at her temerity and falsehood, and expressed myself, I do not, as the sudden passion prompted."

In the second communication, Mr. Fry's reply to Mr. Grigg, he goes still further, and says "goaded to frenzy by this cruel treatment,

and finding all kind and fond remonstrances in vain, I expressed my feelings on one occasion in decided, possibly violent, terms." He admits that this was at West Point, and that he was goaded to frenzy, which I interpret to be a state approaching to madness, partially a maniac. What violence was it that he committed under this state of feeling, and for which he soon after sought pardon of his wife, which he says she granted? What was that violence? On what occasion did it happen?

Yet, gentlemen, strange to say, while he was in this condition of mind, as he has represented himself to you "in a state of frenzy—when the public conduct of his wife tended to bring her character as a wife and a woman into question, and had passed all the bounds of a husband's toleration; in this state of frenzy, at such disgraceful deportment, Mr. Fry meets Mr. Wagner daily; meets him affably and treats him kindly, says nothing to him upon the subject, and writes letters to her family, stating that all is sunshine and peace, and bids fair to continue so to the end of their joint lives. Was it not Mr. Fry's duty to state, in his answer, the occasion to which he referred? Would it not have been more proper and frank for him to have done so? And if her conduct was so public that it was noticed by those with whom she associated—if it was so gross and scandalous as to attract general attention, as to goad him to frenzy—why was there not one human being of that public which was so outraged, to send an affidavit here, showing that his statement is true? Mr. Fry's own conduct disproves it. His continued friendly communication with Mr. Wagner disproves it. It seems to me that for his own sake he would have expressed himself very plainly to him. The fact of his not having done so will convince you that he had no such belief or opinion, as he has avowed in his answer.

I go on further, gentlemen, and I am sorry to be obliged to refer to a subject in which I think Mr. Fry has acted most unpardonably. If there be a pledge of honor which ought to be kept, it is in reference to correspondence, particularly where a lady is concerned. Mr. Williams went to West Point as a friend of Mr. Fry, and received a letter from Mr. Wagner on the express pledge that no possible use should ever be made of the correspondence. It was represented to Mr. Wagner

that this would be the means of settling and harmonizing everything. Hear his own words.

* * * * * “Mr. Charles Williams, accompanied by Mr. P. L. Yorke, both from Philadelphia. These gentlemen presented me with a note of introduction from Mr. Horace B. Fry; and Mr. Williams told me that he came to see me as a friend, not only of Mr. Fry, but also of Mrs. Fry and of yourself, her father; and on behalf of all concerned, he wished to make a proposition to me. He said that Mr. Fry had read my letter, and that he deemed it a criminal correspondence, and that if I did not agree to cease all further communication with the lady in question, and give up whatever mementos, letters, &c., that I had received from her, he would at once proceed to take such legal measures, both civil and military, as would bring about my proper punishment.

“I refused at once to yield to any such proposals. I denied positively the insinuations as to a criminal correspondence with the lady, and refused to be coerced into any such dishonorable agreement. Mr. Williams handed me a paper which appeared to be carefully and formally drawn, and which contained these propositions and insinuations.

“After reading it I again denied most unhesitatingly the inuendos and assertions, and declined being forced into compliance. Mr. Williams then stated that he was certain that there was no intention to force me to do anything; that if the writing seemed to read in that sense, I ought to make some allowance for the excited state of Mr. Fry’s feelings. He told me that the lady’s father, yourself, was desirous that the matter should be arranged in this way, and that the idea was merely to keep an unfortunate matter from the public. He said he was anxious that I should understand him as being entirely honest in his actions, and that he desired me to regard all my communication with him as upon the basis of truth and honor.

“I acknowledged that under the circumstances I would not attempt to have any communication with the lady in opposition to the wishes of her husband, and of you, her father; but that I was by no means inclined to give up the letter which I had received from her. He said there was no reason why I should hesitate to give it to him, as no one

should see it, as he would give it to the lady herself, and that he would explain to her how I felt in reference to it. He said that there was no doubt but that such an arrangement would be satisfactory to all concerned, since all that was desired was that there should be a proper assurance that no trouble should arise, in the future, from this letter; and further, to assure me of this, he said he would forward to me my letter, and that *all copies of it should be destroyed*, and that *no further use should ever be made of it.*”

Yet, gentlemen of the Committee, you will find, although no copy of the letter is produced to you, Mr. Fry, from memory, gives you his version of the contents of it, describing it as a long love-letter in the one place, and a love-letter in the other. He gives you the beginning and end of it, thereby giving an interpretation of it, which, it seems to me, puts it in the most unfavorable light. You will recollect, however, what Mr. Wagner says about it—that it was a letter advising her to trust and confide in her parents, and to take their advice. This letter, therefore, which was never to be made use of, is incorrectly recollected by Mr. Fry, who publishes as the substance of it, that which has no resemblance to its contents, according to the recollection of its author.

I have gone over the issue of fact between the parties for the purpose of proving, as I trust I have, that the facts set forth in Mrs. Fry’s petition are not mere inventions gotten up for the purposes of this application, but that they transpired and were communicated to Mr. Wagner by Mrs. Fry at West Point, to a living witness, at or about the time at which she says they occurred. She not only stated them to Mr. Wagner there, but soon after her return home, communicated the same facts to her parents. You cannot, therefore, credit the terrible accusation of Mr. Fry, that the whole of his wife’s complaint is forged and manufactured; the result of subsequent suggestion.

It is true that there are contradictions between her and her husband, and you are to decide who is best entitled to belief. I have read you Mr. Wagner’s letter, which corroborates Mrs. Fry in every particular, while Mr. Fry has no corroboration. I do wrong perhaps in saying that Mr. Fry has no corroboration. He is corroborated in one isolated instance. At Walnut street Wharf, says Mrs. Fry, he ex-

hibited temper about the baggage. Mr. Fry has given to you the affidavits of two gentlemen, who say that at the time they reached the Wharf, Mr. Fry was attending to the baggage, and that he afterwards joined them. There were two ladies with Mrs. Fry—Miss Fry and Miss Tracy—who, if they had been examined, might have given a different color to this statement, and thereby tend to corroborate still further the positive statement of Mrs. Fry, under oath, of what actually did take place at the Wharf. It is unsatisfactory, then, to call witnesses who might have arrived after the occurrence did happen, and who did arrive after Mr. Fry had gone to attend to the baggage.

So far, then, gentlemen, I have gone over the facts and averments contained in Mrs. Fry's memorial. I ask you to do the same patiently, and you will find that in every instance where it was possible to corroborate her, she has been corroborated! Remember, I pray you, for the sake of justice, for the sake of charity, what the precise issue is between her and her husband, and in view of the whole facts, and with a knowledge of the dire importance hanging upon this case, decide whether the complaints set forth in her memorial were gotten up after the separation, and for the purposes of this application. With the testimony before you of her contemporaneous statements of her wrongs, freshly after their occurrence, to which I have referred, is there room for doubt, particularly when you couple it with the fact that Mr. Fry, who stands before you in the position of an honorable man, impatient and jealous of a husband's honor, daily extended to Mr. Wagner the hand of friendship, treated him affably, never complaining? Gentlemen, it is an old adage and a true one, that actions speak louder than words, and I would rather, if occupying any one of your positions, rely upon this single circumstance than a denial, no matter how forcible the terms. You will agree with me that there are things we cannot doubt nor disbelieve. No one with the feelings of a man would, when the honor of his wife was at stake, treat the party whom he suspected, kindly and affably.

Let me now call your attention to the epithets which have been applied to Mrs. Fry by her husband. Ponder on them, gentlemen, as I read the painful catalogue of vituperation, and let me ask you if it be consistent with common decency and propriety to apply such terms to a lady whose only request is to be released from one

who states that he hopes "that in due time the Courts of law will grant him a separation."

In his memorials to this Legislature, Mr. Fry, under oath, speaks of her gross misconduct, temerity, falsehood, unbecoming propensities, perjury in every line, her romances invented to palliate animadversions upon her conduct; her offences against her marriage vows; her unfeeling behavior, rendering intimate association with her intolerable; her outrageous, false and wicked slanders, uttered in her petition; her conjugal derelictions; her damaged fame; her reckless conduct; her name shamefully connected; decent respect for public opinion required him to restrain her; her ferocious manner; that she gloated over the pain she inflicted upon him; indulging in another passion; morose, rude, cruel; her reckless passion; the turpitude of her treachery and falsehood; whatever sense of right she might have left; shameful intrigue; disgraceful abandonment; outrages on propriety; public disgrace; degradation of herself; grossest deceit; unlawful attachment; wilfully forfeiting her honor; and following the dictates of her illicit affection.

Mr. Fry, gentlemen of the Committee, is celebrated for writing handsomely. His answers are full of pointed and beautiful sentences. He is, as he told his wife, possessed of splendid classical attainments. That this is all his own composition, I doubt not, and I do most gladly acquit any gentlemen of the bar from writing a paper like this, besmeared with such epithets in reference to a lady, his wife. I doubt whether any gentleman of the bar could be found to do it: but there it is. The composition is beautiful. It shines; but, like an animal, the name of which I will not mention, while it shines it is very disgusting.

Gentlemen, do I understand that Mr. Fry appears at your bar, desiring you to continue his connection with a wife whom he has so characterized? Oh, yes! he asks you to refuse the divorce upon the ground of the letter written to Mr. Wagner which was gotten from the Post Office, no matter how. That letter was written the day after the painful scene so fully described in the papers before you; a scene which he himself stated, lasted from the hour of dinner throughout the evening; a scene of agony: the wife shrieking and fainting from the excitement. Read this letter for yourselves, gentlemen. It was

written in confidence. The writer did not expect that it would ever meet the eyes of the world. If even one single guilty or indelicate thought or word had ever transpired, we would have had a revelation of it there. But there is nothing like it. She writes wildly—she says she must leave the house, the city; she knows not where to go or what to do; she will hire herself as a domestic; she will go abroad as a child's nurse; she will disguise herself; will take an assumed name; she wishes to go to her father's house, but she fears that her husband will pursue her there; she feels that she will be safe nowhere, except hidden from the world. In this deplorable state of agony, misery and despair, this young and wretched widowed bride, who had never known a care, pours out the effusions of a bewildered brain. Judge her harshly, who can!

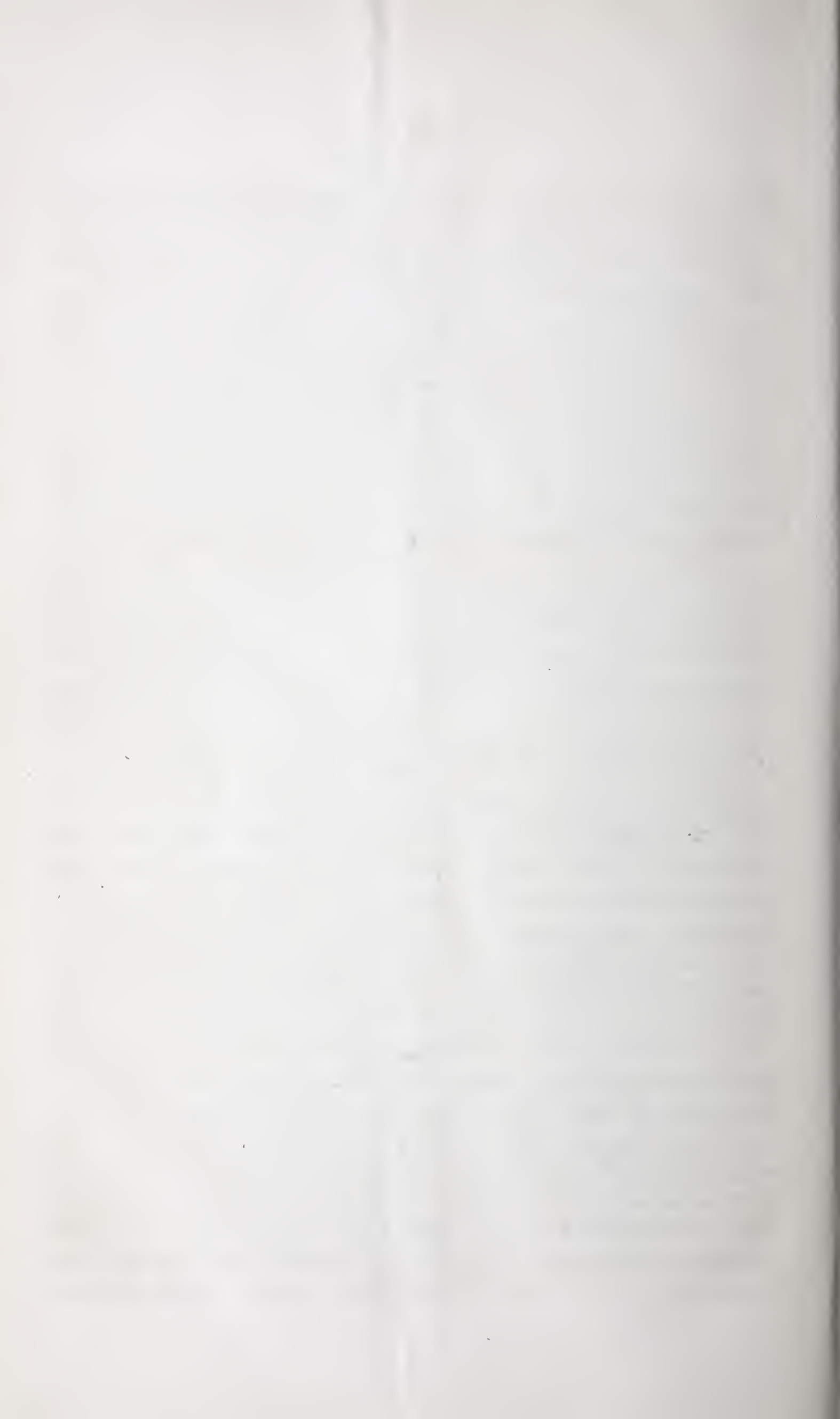
In conclusion, let me ask you what is desired on the one side and on the other? Both parties are anxious for a divorce—the wife praying for it at your hands, and the husband saying that he is determined to have it as soon as he can obtain it in a Court. It is a mere matter of time, or pride, on Mr. Fry's part.

This young girl—child, I was going to say—requires some protection.

Can she look to her husband as a protector? Will you not allow her to take shelter with her father and mother? Are they not the only protectors she has in this world? Is it asking too much on her account and in her behalf, that she may be allowed to remain where she is; that this connection which has been so miserable and short-lived shall be severed, as it will be; that it may be dissolved, as it must be; that it shall be put an end to, as I humbly submit it ought to be? Why, gentlemen, what will become of her, if you refuse this petition? I have read of a dead body being fastened to a living victim.

It seems to me that the condition of this unfortunate young lady will be as fearful as that, if you do not grant her prayer. You condemn her to be attached to a husband who is not with her, who is not for her, but who is against her, and who is, perhaps, the only enemy she has in the world; who has branded her, who seeks to abase and destroy her; who stands upon this record as her accuser. Will you, upon such a state of facts, fail to give her the relief which she solicits at your hands?





REMARKS
OF
HON. THOMAS CORWIN.

MR. CHAIRMAN AND GENTLEMEN OF THE COMMITTEE:

If the learned counsel on the other side, (Mr. Wharton,) who has just addressed you, could say with sincerity, as I have no doubt he did, that he felt some embarrassment arising out of the feelings which the facts of the case had inspired, I trust you will believe me when I express the same embarrassment, and I hope, after being allowed that privilege, that you will indulge me with a word or two personally affecting myself.

I know it is not usual in forensic discussion for counsel to state anything which does not strictly relate to the matter before the Court, and I, therefore, will do no more than remark that my own embarrassment springs from the fact that I am a mere stranger to you, and a participant in a discussion of facts which have come to my knowledge under circumstances of a most painful nature. You may imagine, Mr. Chairman, that something of an extraordinary nature has brought me here. That is true. The person for whom I feel by far the most interest, as connected with this transaction, is the father of this un-

fortunate girl, and now the legal and accepted father-in-law of the gentleman here to-night, (Mr. Fry,) not less unfortunate than his unfortunate wife.

It was my lot to have been acquainted with Mr. Grigg, the father of this child, when we were both, I think, about the age of ten to fourteen or fifteen years. We played together in that early period of our lives—that restless, careless, thoughtless period of human existence—to which men at my time of life are wont to turn with the most dear and cherished remembrances that the human bosom can entertain.

I have known that gentleman, (Mr. Grigg,) more or less, from that time up to this; and during the whole duration of my intercourse with him I have not known an act of his which has not tended to increase the confidence I have always entertained of his perfect integrity, the unbounded generosity of his nature, and above all, of the strong and powerful affection with which he clings to his friends, and as you may all see here, gentlemen, of that undying and unquenchable affection with which he clings to this injured daughter. Learning something very vaguely of the rumors that were afloat regarding the unhappy termination of this marriage, I addressed a letter to my friend, an answer to which brought me a statement pretty much the same as that presented in his memorial to you; and after some correspondence on this subject, I thought it my duty to my earliest and cherished friend to see him. That step, gentlemen, would have been called by many an imprudent one; but it was prompted by certain warm impulses which, I may be pardoned in saying, are habitual to my nature; and that imprudent step led to another, which was to bring me here, not for the purpose of discussing the question at all, about which I am now speaking, but solely with the view to gratify the feeling I had for my old friend's cause—for it has become his—hoping that there might be some happy termination to this unhappy affair. He—I mean the gentleman of whom I have spoken—has prevailed upon me to address to you some few remarks on this subject; and I beg you to understand that I do not wish to acquit myself of what is called “making a speech,” as that ambition long ago died within me, but I shall speak only according to my duty, and confine myself to a few general remarks. And if what I have to say

could be converted into a flash of lightning, I should certainly do it and relieve you of that tedium which surely will come upon you before I have concluded. I do not personally know the gentleman who has just taken his seat, (Mr. Wharton,) but I should suppose he has long been engaged in forensic affairs. It has been forty-two years since I first had the honor of appearing in a Court of Justice. For many years I have been engaged as counsel in various cases, but in my whole life I have never once appeared before a legislative body; and I confess, with my ideas of forensic propriety in judicial Courts, I am somewhat puzzled to know what I dare say, what I ought to say, what facts would be considered as proofs, or what facts now before the committee are proved. Some of the facts alleged on the one side, the gentlemen on the other side meet with a statement that they expect to be able to prove the contrary of them; and so we are able to state that counter affidavits can be produced proving this fact or disproving that. I know not what can be proved. I have only read the papers before you, detailing the particulars of the conjugal relations of these two people, and why the parties have applied to you. These I can comprehend, and to these I wish to address myself.

First of all, gentlemen, it is alleged as a legal proposition, by the counsel on the other side, that you have no jurisdiction in this case. Here again, gentlemen, some little embarrassment must be felt by one very little acquainted with the legislation of your great State of Pennsylvania, when he comes in conflict, in his arguments, with those who have very great familiarity with that legislation, and as you may see in this case, with those who are entitled to the highest respect of the members of their profession. I looked at the Constitution of your State a few days ago, and I found there what I had expected, that the Legislature had granted to the Courts of Pennsylvania certain jurisdiction in cases of this kind, and that that Constitution prohibited the Legislature of the State from acting in any case where the judicial Courts have clear jurisdiction. This constitutional clause proves as clearly as any language can express it, that up to that time the contract of marriage, as it is called, was perfectly and entirely under the control of that omnipotent legislative power which by that Constitution is restricted to particular cases. Had there been nothing in your Constitution, gentlemen, limiting the power of

your Legislature, and transferring that power to the judicial Courts of the State, the proposition of Mr. Hirst, in his opening argument, as to the imperial power of the Legislature on this subject, would be, as he has shown, an axiomatic truth. If the convention that formed your State Constitution had the power to say that this contract might be dissolved for causes specified, and that, only when those causes were specified by Acts of Assembly the Legislature should not grant divorces in any cases, why, gentlemen, it clearly proves that the Legislature, in all other cases, has omnipotent power over this contract of marriage, notwithstanding what the gentleman on the other side (Mr. Wharton) says, and that they can divorce any parties who enter into this contract of marriage; in other words, although marriage is a contract sanctioned by the Legislature of your Commonwealth, it is a contract which may be abrogated, in any way consistent with the opinions of the people who formed your organic institutions. A Constitution, provided by a convention of the people of Pennsylvania, legitimately established, can enact that the marriage contract shall not be entered into at all.

I have always supposed that society, acting in its original, unburdened power, may say that nobody shall be married; they may say that—may they not? Unquestionably they may. The unlimited power which man has over his own destiny, so far as the institutions of society are concerned, authorizes him to play any fantastic tricks. I have supposed that all know this. The hand-books of history inform us that in the ancient societies of the old world the people were not allowed to exercise many of the powers that we now possess. If history be true, in the days of the celebrated conqueror of Babylon, a man was not supposed to be of age until he was forty years old. So again, in your institutions, a female, by the laws of Pennsylvania, is not capable of making a contract until she is twenty-one. By the laws of Ohio, of which State I have the honor to be a very humble citizen, a female is of age at eighteen years—unhappily so. I think I would give my influence towards restraining a woman from taking upon herself an obligation so important as that of marriage, by exercising the restraint of parental control until she should attain the age of twenty-one. And, gentlemen, if there should be anything wanting to show what ought to be adopted as a general rule of society,

this unfortunate case would show it. It is, therefore, a proposition not to be controverted, however the gentleman on the other side (Mr. Wharton) might point us to some evils that might divert us from it, that the legislative authority over the marriage contract in all cases outside of the constitutional restriction, is omnipotent. If your Constitution had left it untouched, the Legislature of your State would possess uncontrolled power over the subject. The general presumption is that the members of the Legislature are competent to perform their duties; but if this is a proposition to be disputed it will have to be done in some other place than this, and by some one else than myself.

I speak of this only as a question of power, arising whenever a similar bill is submitted, and I presume it may always be safely submitted to the forum to which this is presented. It is to be presumed, therefore, that you have every authority on this head which is not limited or taken away by the Constitution.

In the law of 1815 there is a provision granting to the Courts, for certain causes there specified, jurisdiction in cases of divorce. Gentlemen, I will not prolong the time of this discussion by reading to you this law, but the substance of it is that, whenever certain facts are proved, the Court may dissolve the bonds of matrimony.

Now what is the proposition before you? It is alleged that the cruel treatment of Mr. Fry towards his wife—as his conduct is shown in her petition—if proved in a Court of Justice, would enable a Court to grant a divorce. I agree that under the law which was enacted in 1815, the cruel treatment and various other phrases used there might be construed to mean exactly what Mrs. Fry has set forth in her petition; but, gentlemen, whilst I admit that, a regard for the requirements of your Constitution compels me to say that you are authorized to grant a divorce in every case where such cruel treatment fails to produce the effect contemplated by that Act—in other words, that your power is not taken away, except as regards that law of 1815—the Constitution does not say that for all those *causes* of divorce which have been assigned to the jurisdiction of the Courts the Legislature shall not act, but it is limited to *cases* of divorce.

If the Courts could take jurisdiction in this case, and act upon it, then, gentlemen, I take it for granted that you could have nothing to do with it. But if you believe that this case, as presented to you,

could not be acted upon according to the meaning of those laws in a Court of Justice, then I hold that you are authorized to act upon it yourselves. Now what is the case presented to you? If two years had elapsed since this unhappy transaction took place, it may be that the desertion of Mrs. Fry, if without any cause accounted for, would enable her husband to obtain a divorce. But if on the other hand, the application for a divorce should be made by her without the requisite affidavit, why of course the Court would refuse it. But here are a man and woman coming before you, both declaring that they cannot and will not live together in the conjugal relation of man and wife. And now the question is whether, this case going before a judicial Court, that Court would be enabled to act upon it. Unquestionably it would not. Take another view of the case. You find two people unfortunately and unhappily married, both of them declaring that the marriage relation is forever dissolved, and that there can be no conjugal relations existing between them. Would you not divorce those two persons?

Again, gentlemen, the facts presented in the petition of Mrs. Fry, if you look at them carefully, are of a nature such as never can be proved by either the man or wife before a Court. Their testimony, if testimony it can be called, cannot be received by the Courts, nor can witnesses be called; for I suppose that in such a case as this neither the declarations of the wife under oath, nor those of the husband, could be received. Here, then, is this case: Bad treatment is alleged on behalf of this poor girl—such treatment, as if proved, or capable of proof, by any witnesses, the parties might possibly procure a divorce in a Court of Justice according to the mode of judicial procedure; then it would be a case in which the Courts could grant relief; but Mrs. Fry cannot produce proof of bad treatment, because it is alleged that it occurred at times and places where no human being was cognizant of it. Thus it would be utterly impossible for the party ever to obtain a divorce in a Court of Justice. But, gentlemen, I do not rely so much upon that as upon the fact that is apparent on the face of the petition adverted to—that your laws not only require that this bad treatment should take place and be proved, but that it should make such an impression on the complaining party that she believed her life to be in danger, or that she was thereby forced to

withdraw from her husband. Now, gentlemen, if that is so, the complaining party must swear that such was the impression made upon her mind; that she considered her life in danger, or that by reason of such cruel treatment she was obliged to withdraw from her husband's domicil. She has given to you her reasons why she cannot make that oath. Now if it be necessary to the body of the petition that the complaining party should be compelled, in consequence of the bad treatment spoken of, to swear to those specified conclusions, it is perfectly clear that the Legislature intended to vest no jurisdiction in the Courts in cases where the wife is unable to do so. This is clear to demonstration. Let me illustrate this: You all know of the proceeding necessary to obtain a warrant for a breach of the peace. A man threatens to burn your barn, and again to your face threatens to take your life; you must go to a justice of the peace—for justices have cognizance in such matters—and you must swear that you believe that your property or life is in danger; and upon this belief only, the justice takes jurisdiction, and a warrant will be granted. Merely proving the threats will not suffice. You must swear that you go in fear in consequence thereof. These matters are left by the Legislature to the conscience of the party. Possibly some there are who from a slight cause would fancy their lives in peril; others again, of a more robust nature, may require a more violent demonstration to arouse them. The gentleman on the other side (Mr. Wharton) refers to the statute of 1855, which he says enlarges the jurisdiction of the Courts. You will plainly see, on reading it, that it is merely intended to extend the jurisdiction of your Courts to cases occurring out of the State of Pennsylvania. That law says that, notwithstanding the parties resided outside of the State at the time the conduct complained of took place, the Courts of the State to which the complaining party has removed may take jurisdiction of the case. The law of 1855 was only intended to extend to cases of that kind that had not been previously admitted into the jurisdiction of the Courts.

Gentlemen, if this petitioner has assigned to you some causes for a divorce which might be proved, and such as the Courts take cognizance of, and if she has also assigned to you other reasons which would be sufficient in your judgment to entitle her to a divorce, why,

unquestionably, you would not refuse to do so, because some wrongs are alleged as to which the Courts can take jurisdiction.

Let us dismiss from our recollection all disputed matter arising from the conflicting statements of the parties. There are points upon which they do agree—that they were married on the 2d of August; that they soon after came to an open rupture. Mr. Fry, whatever may be his palliative plea to you, admits that his conduct was so guilty that he was compelled, as a gentleman, to ask his wife's pardon for what he had said or done to her; and that this rupture was occasioned by the belief Mr. Fry entertained that the affections of his wife were about to be bestowed upon another man. Both allege that they will never live together again. Are there any disputes about these facts? None. Now, I ask the Legislature of Pennsylvania, I ask you, gentlemen of the committee, whether you will not consider this to be sufficient ground for dissolving the bonds of matrimony? Let me ask, who is it that begs you to free her from this marriage contract? It is the daughter of a respectable old gentleman; and I believe that that old gentleman has been admitted to have been a most excellent and useful man—a benefactor in his way; he is known to have been useful to many persons, and above all, he is known to entertain that parental affection which God Almighty has implanted in the bosom of man for the protection of his children. In regard to this girl, gentlemen of the committee, I beg you to note that she is pure and uncontaminated, as far as any overt act is concerned. We have that admission made in your presence, this night, by this man, (Mr. Fry,) her husband, and his counsel. At her eighteenth birthday, before she was of age, she entered into the marriage contract; whether the courtship was long or short, we are not now informed; whether those peculiar traits which Mr. Fry states were carefully concealed or not, is a statement of his own.

Gentlemen, it is stated in some of these memorials that Mr. Fry was twenty-eight years of age at the time of his marriage; his wife eighteen. A young lady just emancipated from the boarding school was thrown into his arms. And now let me ask whether a man of his age, a gentleman of the education that this gentleman possesses, a citizen of Philadelphia, familiar from his early youth with the intercourse of both the male and female population of that city, be-

coming acquainted with a young girl of eighteen, just from school, as I have said—could he not tell whether he, a man of twenty-eight, had succeeded in really possessing the affections of that girl or not? It would seem to me that the experienced gentleman of society, acquainted with ladies and those whom we call women, whom we do not dignify with the title of ladies—I mean the inferior class, the hard working though honest and honorable class of society—could easily tell whether he had gained the affections of that young girl or not, or whether it was a mere caprice, or the mere persuasion of the moment that induced her to give her hand and withhold her heart from him. I do not wish to say any more, gentlemen, than I compelled to say on this subject; but I must remark that this gentleman should have known, and above all, the instincts of nature should have told him, whether he had or had not gained the affections of this young girl. It has been a long time since I have had experience in those matters; but I think that a man of twenty-eight, in this country, may be supposed to be able to ascertain whether or not a young girl's affections come to him from her heart. Nature has provided, in our common instincts, a safeguard against a mistake as to this, for I do not believe that God ever intended two persons of opposite sexes to be man and wife unless their hearts rushed together. Now let us look at the facts, however painful it may be to investigate them. Did Mr. Fry know that his wife did not love him, when, on the 2d of August, in the presence of the priest, she gave him her hand? I leave you, gentlemen, to draw all the inferences I might make on this point, whether Mr. Fry did not run “the hazard of the die.” If he rushed into this marriage contract without that due care and caution which a man of his years ought to have exercised, why, then, gentlemen, he has no right to complain of the consequences. As regards his wife, she has not been educated in the ways of the world; and, above all, it is manifest that she has not been instructed to write a letter fit for inspection—or in such a way as a practical lady would write a letter at all—as any of you, gentlemen of the committee, who have noticed her letter to Mr. Wagner, will bear testimony.

On the 5th day of August, about, Mr. Fry writes to the father of this girl that he is exceedingly happy. On the 14th of August he writes to the brother of this child, then in Europe, of the blissful

existence which surrounds Emily's life and his own. It was at that very time that the rupture took place, for which he asked pardon from his wife. He says, in his petition, that within a fortnight she had grown cold and indifferent, and these letters were written within a fortnight of his marriage. Now, gentlemen, what does this mean? Did he mean what he said when he wrote to the brother of that child? Did he mean what he said when he wrote to the father of that child? I do not wish to torture this gentleman (Mr. Fry) with any unkind observations, but it follows as a necessity, from the very position he occupies, that he was deceived in supposing that he had the affections of his wife. Now, gentlemen, if he has suffered himself to be deceived, he has brought all this result upon himself. He has entered into the holy bonds of wedlock without considering whether Emily Grigg really did give him her hand without her heart. What could have occurred within those few days to cause the alienation of her affections, if he ever had them? You, who have been husbands or fathers, feel the condition of a young girl abandoning that husband's protection which she needed. She looked to Mr. Fry as the only man from whom she could expect future protection and assistance. Now, was it possible she could so soon turn from him, if that gentleman had conducted himself as he should towards his wife, and earned her respect? How was it possible he could have lost her affections in one short week?

There was this poor young child, clinging to a husband, with only the experience of her tender years—the figure is a very hackneyed one, but always very appropriate—like the ivy twining around the broad oak. Her affections naturally inclined to him; and if he had fulfilled *his* part of the marriage contract, this unfortunate occurrence would have been the last thing on earth to have happened; on the contrary, the bud that was just breaking forth into bloom would have blossomed in beauty and fragrance. The weakness of human nature is such, gentlemen, that after the excitement of the honeymoon had worn over, her affections might have left him, or his affections have left her; but during the first two or three days that would have been impossible, provided any affection ever existed. We have been left entirely in the dark as to what motives were uppermost in bringing about this marriage; but I say if this man ever had the affections of

this child, he could not have lost them in a fortnight. This is the most intricate case I ever had the fortune to look into. There are contrary ideas starting up all through it. Now, gentlemen, if it is supposed that this girl married this man without feeling for him that affection which alone can secure happiness in the conjugal relation, why then it was his misfortune, and the happiest event of his life would be the obtaining of a divorce that would release him from the bonds of matrimony, and from that poor girl. Under these circumstances Mr. Fry could receive no real injury, and no imputation would fall upon him if the Legislature should act. You may disregard any and all statements made by the parties, contradictory of each other. These assertions may be thrown aside by you, gentlemen of the Committee, and you may take the admitted facts, and you will find yourselves solemnly called upon to grant this divorce, and allow these people to go their ways. Is it not so? This is an unhappy marriage; the parties can never unite. If you believe that these people have been unhappily united, and believe it would be a blessing and benefit to both of them to be separated, and that the power which is given you in this can be exercised with happiness to the parties concerned, you will not confine yourselves to those narrow and necessary rules which are adhered to in a Court of Justice. Your power is unlimited, except by your sound discretion. I ask you, therefore, to act upon no fact which is disputed; I ask you to grant no divorce on grounds which impeach any one; but to take the facts as they are admitted to exist, and act upon them as the parties desire. You can do that; and, sirs, no law of society, no ordination of Heaven, forbids you to do good when you have the power to do it.

On the other hand, is it not your bounden duty to do that which you are commanded to do? In all the law that has been promulgated to the world, in the Ten Commandments, in the laws of Rome, in all the law that has been proclaimed by judges and lawyers, no man has ever doubted that he should do unto others as he would have others do unto him.

The gentlemen on both sides have indulged in some statements in regard to facts, outside of the record, within their personal knowledge. I can state to you, gentlemen, that this excellent old man, the father, is driven to the verge of insanity by this unhappy affair. What is

his condition? This solace, the pet of his old age, has fallen into an unhappy marriage which has rendered all the parties in any way concerned perfectly miserable, and which seems to be on the brink of ruining this child's reputation forever. He sees that child in this equivocal condition—not married, but partially married—not exactly under the legal control of her old father, to whom she has flown as a refuge, because her husband still has a right in some sense to control her. There she stands—a beautiful flower, cast out from the garden to wither, or to bloom in the parental home. Gentlemen, if you have daughters—I do not speak of your sons, for in them your affections are tainted with the dross of ambition—but for your daughters you desire they should have happiness. For your sons you desire they should make some figure in the world; but for your daughters, all you ask is that their peace may be unruffled.

There stands that old gentleman. The only boon he asks is that that child should be sheltered in her father's arms; that she should be, in some way, under the inspection of her father hereafter, that he may instill into her mind those lessons of propriety and morality which alone can make any being happy and respectable.

Gentlemen, as guardians of the welfare of the people of Pennsylvania, if you have the power to dispense happiness, it would be a dereliction of duty not to bestow it upon that old man, who sees his daughter treading the slippery path of life, without a guiding hand. How different the conditions of my old friend and myself now from the time when first we together opened our eyes upon human existence! How does his heart throb with anguish to-night! and how did it beat with exultant joy and happiness, when fifty years ago he and I parted in the little town of Lebanon! He is now weeping over his own desolation for his child; himself, like some blasted tree, its trunk only standing—for he has but a small portion of life remaining to him—his tears streaming from his eyes upon that young daughter; and if there be any tear so pure that it would not stain the face of an angel, it is that which a father sheds upon an unhappy daughter. Will you see an old man go down to the grave in sorrow, his health shattered, his mind distracted, his life ruined, leaving behind him a child, of whom he who should have been her protector, publicly declares that he will have nothing to do with her? and her father, who could in-

spire by his counsel some comfort in her present calamitous circumstances, he too gone, leaving her to fade away in the universal darkness of despair, by the loss of that reputation which to woman is everything that can be given to a human being in this world! Why should you keep that child in this situation? Why should you withhold from that father's bosom this scion that has been taken from him and returned to him? The gentlemen on the other side say, two years hence Mr. Fry will do this thing himself; but he says now, "True, I have taken your child, but I will not touch her—I will not contaminate my hands—I will have nothing to do with her." Thus he addresses himself to her father. What good Samaritan will fling oil upon the wounds of this poor baby of a woman, unless it be this old man? He cannot do it, gentlemen, unless you give him that power; and why will you not do that? If she has erred, put her in the way to retrieve her error. If both these parties have agreed to put themselves as far asunder as the poles of the earth, why should you, then, keep the woman from turning to some one from whom she can ask counsel? If it was your daughter, Mr. Chairman, if you had the blessing of having a beautiful daughter, and were to see her in that situation, would you not implore, "Give her to me—restore her to me! If she has erred, give her back to me; if she is wayward, she is my child, my daughter—give her back to me!" and I ask you to do unto others as you would have others do unto you. There is no better rule of law than that. You have the power to do it; and yet will you refuse to do it? No law of God or man was ever made without a purpose. Jesus himself cursed the barren fig-tree, and it withered. The reason was, that it was the function of that tree to bring forth fruit, and it did not do it.

Gentlemen, as I have told you, I did not come here to make a speech; but I should have expected—if I may be allowed the expression without the charge of blasphemy—my God to forget me if I could forget an old and early friend. I came here for my friend; I verily believe he is as honest and honorable a man as it has ever been my fortune to be acquainted with; and I have known many good and true and upright men. Gentlemen, you are to determine in granting this divorce what good will result from it, or what evil it might produce. Every citizen of Pennsylvania is entitled to your consideration and regard,

but especially the father of the woman who has made an unhappy marriage. Years hence, if you will act now as you should act, the gentleman who sits there (Mr. Fry) will avow that you did all in your power to make him happy, and that it was unwise and the impulse of an undue feeling to attempt to keep himself bound to this unhappy marriage. He will say, some years hence, when this excitement shall have passed away from his mind, that "it was well done, and no matter for what cause; that it was never intended that we should travel the journey of life together; and it was well we separated and took different roads as early as possible."

Gentlemen, much has been said and much comment has been made upon a letter written by *this girl* to *that boy* at West Point (Mr. Wagner.) We always err when we look only at one side of a question; we also err when we infer altogether from one fact. How did that girl come to write that letter to that young man? She tells you that having left her father's home, and being mistaken in the character of her husband, she naturally turned to the first person that was presented to her mind. Now, gentlemen, it may be, and you may take the supposition, that this girl did not love Mr. Fry. If she did not love him, why then what was it that operated on her mind and caused her to marry him? She was a mere baby-woman, knowing nothing of society, feeling little inclined to stray away from the natural feeling for her father's house. She supposed that all she would need would be found in her husband. Here was a young girl allowed to read, perhaps, the novels that float about the country, and there was a young gentleman with epaulets on his shoulders, who attracted her notice. And now, gentlemen, I appeal to your sympathy to say, if she did not love Mr. Fry would she not naturally turn to the first object she should meet? If she had been twenty or twenty-two years of age, there might not have been so much apology for her; if she had been twenty-five, it would have been thought the result of a confirmed habit; if twenty-eight, then it would be supposed that the woman who could make the vow she did on the 2d of August, and within two weeks from that time profess to admire another man, might be given over as hopelessly lost. But we are to consider a girl of eighteen years of age, whose mind betrays itself in the letter she wrote, and which has been alluded to—the very language of that letter has been taken from some popular

novel, or perhaps a paper—the *Ledger*—is there not a paper published in New York of that name? I doubt not that the young man (Mr. Wagner), who seems to be a respectable young gentleman—and the institution into which he has entered has, I hope, instilled into him the highest sense of honor—he too thought he was acting according to the highest pattern of chivalry and modern excellence. He saw that this girl needed sympathy; he saw that she made her complaints to him; he saw that she was unhappy, and that she poured out her sorrows to him; and he formed himself into some Quixotic character, and to that character he addressed himself. Do you not see how it was? They had both read just such things in books, where the hero was commended for sympathizing with the unhappy heroine, and the heroine for the want of affection for her husband. Any one who has had any general experience knows that that poor girl had just such things in her imagination. “I will die for you!”—“I cannot live without you!” Have you not heard of heroines traveling over far countries to their heroes? She, too, must imitate that. She must get strange clothes; doubtless she had read the poem in Ovid’s *Metamorphosis* of the two lovers who were separated by a wall, which prevented them from seeing each other, and they were dying because they could not see each other. But whatever else she may be, gentlemen, you see she is not an experienced deceiver. She is just now in that position where her husband, after abandoning her as he has done, tells you he will never receive her as his wife. Her father has rescued her from the brink of that fearful precipice she was about to leap. Will you allow her to be again exposed? Could Mr. Fry desire she should be placed in that painful position again? Certainly not.

Gentlemen, I should not be here, I should not have addressed one word to you, but, as I told you, I had an interest in this old friend of mine; I could not stay away from him in his hour of misery; I am here as his counsel, and have relieved myself of what I consider to be the obligations of man to man, of friend to friend, and shall be ready and willing, like him, to acquiesce in the result of your decision. I do not think that any of the parties concerned will be disappointed if you decide to divest these people of their marital obligations. They have both concurred in that; they have decided that question for themselves; they have actually dissolved the connection, and you

have only to sanction their own act by the form of law. You will not see the young girl sent forth into the world without somehand to guide her through life. Let that hand be the withered hand of her old father, for, if what is alleged be true no other hand can save her.

NOTE.—Mr. Arthur Cannon, Phonographer, took full notes of Mr. Corwin's SPEECH, but on account of some alleged misunderstanding, *his* REPORT has been withheld from the public. The foregoing REMARKS have been written out from notes obtained from another person.